



November 14, 2002

Mr. Gordon Bowman
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2002-6510

Dear Mr. Bowman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 172189.

The Travis County Health and Human Services Office (the "county") received a request for "all audits and financial documents" relating to certain transactions between the county and Vision Village, Inc., since 1997. You state that the county has made responsive information available to the requestor. You have submitted other information that you claim is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. You question, however, whether the submitted information is responsive to this request. We have considered your arguments and have reviewed the information you submitted.

Chapter 552 of the Government Code requires a governmental body that receives a request for information to make a good-faith effort to relate the request to information that is within the governmental body's possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). However, a governmental body is not required to release information that did not exist when it received the request or to create responsive information. *See* Open Records Decision Nos. 605 at 2 (1992), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983). You inform us that the county auditor's comprehensive annual financial reports for the years specified in the request have been made available to the requestor. You state that information determined to be public in an earlier open records letter ruling also is available to the requestor, to the extent that the information is responsive to this request. You assert, however, that the submitted documents "may not be responsive in that they are not 'audits and financial documents.'" Having considered your representations and reviewed the

information in question, we agree that the submitted information does not come within the scope of this request for information. Therefore, the county need not release the submitted information to the requestor. As we are able to make this determination, we need not address your other arguments against disclosure.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

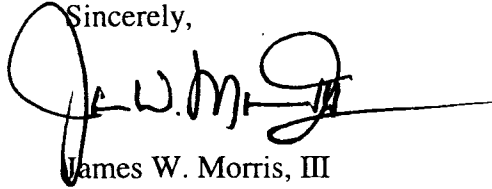
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 172189

Enc: Submitted documents

c: Mr. Duggan Flanakin
The Austin Review
1609 Shoal Creek Blvd. Suite 204
Austin, Texas 78701
(w/o enclosures)